

LEGISLATIVE COUNCIL

Security Industry Amendment (Private Investigators) Bill 2016

First print

Proposed amendment

No. 1 **Privacy complaints against private investigators**

Page 3, Schedule 1. Insert after line 22:

[5] Part 3B, Division 3

Insert after Division 2:

Division 3 Privacy complaints against private investigators

39R Privacy Commissioner may investigate privacy complaints arising from surveillance

- (1) In this section:
licensee means the holder of a class 2E licence.
- (2) A complaint may be made to (or by) the Privacy Commissioner about the alleged violation of, or interference with, the privacy of an individual arising from the surveillance of the individual by a licensee.
- (3) Division 3 of Part 4 of the *Privacy and Personal Information Protection Act 1998* applies to any such complaint and, in its application, that Division (including the offence set out in section 49 (3)) applies to the licensee who is the subject of the complaint in the same way as it applies to a public sector agency.
- (4) The Privacy Commissioner may give a direction (a *privacy direction*) to the licensee in writing to cease doing anything specified in the direction if:
 - (a) the Privacy Commissioner has decided to deal with the complaint but has been unable to resolve the complaint by conciliation, and
 - (b) the Privacy Commissioner is satisfied that the alleged violation of, or interference with, privacy has occurred and the violation or interference is serious.
- (5) The Privacy Commissioner is to provide the Commissioner of Police with a copy of a privacy direction given to a licensee.
- (6) It is a condition of every class 2E licence that the licensee:
 - (a) comply with a privacy direction given to the licensee, and

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- (b) if the licensee has been provided to carry on a security activity by the holder of a master licence—immediately notify the holder of the master licence about the privacy direction including the terms of the privacy direction.
 - (7) It is a condition of every master licence that the holder of the master licence ensure that any licensee provided by the holder to carry on a security activity comply with any privacy direction given to the licensee.
 - (8) A licensee who is given a privacy direction may apply to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the decision by the Privacy Commissioner to give the privacy direction.